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**IN THE  
COURT OF APPEALS OF INDIANA**

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JASON PADDOCK,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 82A01-0606-CR-255
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

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APPEAL FROM THE VANDERBURGH SUPERIOR COURT  
The Honorable Terry Maurer, Magistrate  
Cause No. 82D05-0510-CM-7023

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**APRIL 13, 2007**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**BARTEAU, Senior Judge**

## STATEMENT OF THE CASE

Defendant-Appellant Jason Paddock appeals his conviction of battery, a Class B misdemeanor (Ind. Code § 35-42-2-1). We affirm.

## ISSUE

Paddock raises one issue for our review: whether there was sufficient evidence to support his conviction.

## FACTS

For a period of years, Paddock dated the victim's mother, C.S. When Paddock stayed at C.S.'s house, he and C.S. slept in the living room. The fourteen-year-old victim slept in an adjacent room containing a common hallway used to access the kitchen and the bathroom. On August 12, 2005, at approximately 2:00 a.m., someone approached the victim while she slept, placed a hand on her upper chest and breast, and began to pull on her shirt. The victim awakened and saw Paddock walking away from her bed and down the hallway. On the following morning, the victim wrote a note to C.S. explaining what had happened. Paddock was subsequently arrested for battery and convicted after a bench trial.

## DISCUSSION AND DECISION

Paddock contends that the State failed to present sufficient evidence to support his conviction. Citing *Vuncannon v. State*, 254 Ind. 206, 258 N.E.2d 639 (1970) and cases cited therein, Paddock argues that the evidence against him supports only a conclusion of guilt, not guilt beyond a reasonable doubt.

In reviewing sufficiency of the evidence claims, we will affirm a conviction if, considering only the probative evidence and reasonable inferences supporting the verdict and without weighing evidence or assessing witness credibility, a reasonable trier of fact could conclude the defendant was guilty beyond a reasonable doubt. *Hawkins v. State*, 794 N.E.2d 1158, 1164 (Ind. Ct. App.2003). The testimony of the victim, even if uncorroborated, is ordinarily sufficient to sustain a conviction for child molestation. *Bowles v. State*, 737 N.E.2d 1150, 1152 (Ind. 2000).

In *Vuncannon*, the appellant was convicted of assault and battery. On appeal, the appellant challenged the sufficiency of the evidence against him, which essentially consisted of the victim's testimony. Our supreme court noted that the victim testified that he was not sure whether the defendant "backed into me or he grabbed me." 258 N.E.2d at 639. Characterizing the victim's testimony as "not definite but in the alternative," the court held that the victim's testimony lacked "directness and freedom from uncertainty, qualities which substantive evidence of a probative value must have." *Id.* at 640. The court held that the evidence was insufficient to support the conviction. *Id.*

The *Vuncannon* court cited *Liston v. State*, 252 Ind. 502, 250 N.E.2d 739 (1969), for the proposition that it is an appellate court's function "to determine whether or not the evidence is substantial and of probative value." *Vuncannon, id.* In *Liston*, the court considered whether there was sufficient evidence to warrant the appellant's conviction of attempted escape after a prison disturbance. The *Liston* court noted that the evidence established that the appellant and other prisoners broke windows and window frames, but did not attempt to leave. 250 N.E.2d at 743. The court further noted that the appellant

and other prisoners exhibited no intent to leave the prison, but instead barricaded themselves within the cellblock area. *Id.* The court ultimately concluded:

We recognize the rule that we may not weigh the evidence and may only review that evidence most favorable to the state to determine, on a sufficiency of the evidence question, whether we shall affirm or reverse the judgment of the trial court. Such appellate duty, of which we take cognizance, in far too many cases requires that we probe and sift the evidence. Thus, if as a result of our probing and sifting the evidence most favorable to the state, we determine that the residue of facts is so devoid of evidence of probative value and reasonable inferences adduceable therefrom, as to preclude guilt beyond a reasonable doubt, we should so declare.

*Id.*

The *Vuncannon* court also cited *Gaddis v. State*, 253 Ind. 73, 251 N.E.2d 658 (1969), for the proposition that if evidence “tends only to support a conclusion of guilt it is insufficient; it must do so beyond a reasonable doubt.” In *Gaddis*, the State’s chief witness testified that he was not sure at the time he made an identification whether appellant was the man who had recently robbed him and that he only became “sure” after being threatened by police officers. 251 N.E.2d at 660-61. After observing that the witness’ identification testimony was “at best equivocal and the result of coercion,” the court held that the evidence was insufficient to support a conclusion beyond a reasonable doubt that the appellant had committed the robbery. *Id.* at 661-62.

In the instant case, the State’s burden was to show that Paddock knowingly or intentionally touched the victim in a rude, insolent, or angry manner. Ind. Code § 35-42-2-1. Because the touching occurred in the middle of the night when the occupants of the

house were sleeping, the victim was the only witness. However, unlike in *Vuncannon* and *Gaddis*, the victim did not equivocate in her identification of Paddock as the person who was walking away from her bed immediately after the touching. Furthermore, her testimony was not coerced. The sufficiency of the evidence boils down to the credibility of the witness and the weight to be given to her testimony. The trial court observed the victim as she testified and also asked questions of the victim to clarify her testimony. We cannot determine credibility or reweigh the evidence; therefore, we cannot say that the trial court erred in determining that the victim's testimony was sufficient to establish that Paddock committed the battery.

#### CONCLUSION

The trial court did not err in determining that there was sufficient evidence to support the conviction.

Affirmed.

RILEY, J., and MAY, J., concur.